

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

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BROADCAST MUSIC, INC., et. al.

Plaintiff,

-against-

GHM RESTAURANT, INC., BERNARD HAND,
DAVID MASSEY, AND THOMAS MCGRATH,

Defendants.
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**DEFENDANTS'
ANSWER AND
DEFENSES**

Index No. 13-CV-7988

Defendants, by their attorney, Todd Wengrovsky, for their Answer and Defenses, state as follows upon information and belief:

“JURISDICTION AND VENUE” SECTION OF THE COMPLAINT

1. Defendants admit the allegations of this Paragraph of the Complaint.
2. Defendants admit the allegations of this Paragraph of the Complaint.

“THE PARTIES” SECTION OF THE COMPLAINT

3. Defendants admit the allegations of this Paragraph of the Complaint.
4. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.
5. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

10. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

11. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

12. Defendants admit the allegations of this Paragraph of the Complaint.

13. Defendants deny each and every allegation of this Paragraph of the Complaint.

14. Defendants admit the allegations of this Paragraph of the Complaint.

15. Defendants deny each and every allegation of this Paragraph of the Complaint.

16. Defendants deny each and every allegation of this Paragraph of the Complaint.

17. Defendants deny each and every allegation of this Paragraph of the Complaint.

18. Defendants deny each and every allegation of this Paragraph of the Complaint.

19. Defendants deny each and every allegation of this Paragraph of the Complaint.

20. Defendants deny each and every allegation of this Paragraph of the Complaint.

“CLAIMS OF COPYRIGHT INFRINGEMENT” SECTION OF THE COMPLAINT

21. Defendants repeat and incorporate by reference their replies in Paragraphs 1 through 20 herein inclusive.

22. Defendants admit the allegation of this Paragraph of the Complaint as to the nature of Plaintiff’s claims, but deny infringement and deny the remaining allegations therein.

23. Defendants admit the allegation of this Paragraph of the Complaint as to the nature of the schedule to the Complaint, but deny infringement and deny the remaining allegations therein.

24. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

25. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

26. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint.

27. Defendants deny each and every allegation of this Paragraph of the Complaint.

28. Defendants deny each and every allegation of this Paragraph of the Complaint.

DEFENDANTS’ AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff can not demonstrate injury, impact or damage as a result of any actions by Defendants.

THIRD AFFIRMATIVE DEFENSE

Defendants have not infringed the copyrights cited in the Complaint.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery by reason of waiver and/or estoppel.

FIFTH AFFIRMATIVE DEFENSE

Defendants had no knowledge that any of their activities constituted infringement and thus their actions were innocent.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of acquiescence.

WHEREFORE, Defendants respectfully request this Court to grant judgment in their favor, order all claims of the Complaint dismissed with prejudice, award Defendants all costs, expenses, disbursements and fees incurred herein, including reasonable attorneys' fees, and such other, further and different relief as the Court may deem just and proper.

Dated: Calverton, New York.
December 2, 2013

/s/ Todd Wengrovsky
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